

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

David Booker,

Petitioner

v.

State of Nevada, et al.,

Respondents

Case No. 2:23-cv-00526-JAD-NJK

Order Instructing the Petitioner to File an Amended Petition and to Either pay the Filing Fee or Submit an IFP Application

[ECF No. 1]

Pro se Petitioner David Booker filed this 28 U.S.C. § 2254 petition for writ of habeas corpus¹ on a 28 U.S.C. § 2241 form and did not either pay the required \$5 filing fee or submit an application for leave to proceed *in forma pauperis* (“IFP”).² **This action will not proceed unless and until Booker files an amended petition on this court’s approved form, and either pays the \$5 filing fee or submits a complete IFP application with all required documentation.**

In order to obtain federal habeas review under 28 U.S.C. § 2254, a petitioner must file a proper petition for writ of habeas corpus on this court’s approved form to ensure that the petitioner provides the information needed to conduct a preliminary review of the petition and its grounds. Although Booker submitted his petition on a § 2241 form, he indicated that he is challenging his state court conviction under § 2254.³

Booker’s petition was not submitted on the court’s approved § 2254 form, so he must file an amended petition on the court’s approved form. On page 1 of that form, he must write the

¹ ECF No. 1-1.

² Under 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5 filing fee is required to initiate a habeas action in a federal district court. The court may authorize an indigent prisoner to begin a habeas action without paying the \$5 fee if he submits an IFP application on the approved form and includes three specific documents: (a) the prisoner’s financial declaration and acknowledgement showing an inability to prepay fees and costs, (b) a financial certificate signed by the prisoner and an authorized prison official, and (c) a copy of the prisoner’s account statement for the six-month period prior to filing. 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2.

³ ECF No. 1-1 at 2.

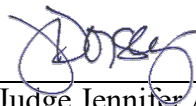
word “AMENDED” immediately above “Petition for a Writ of Habeas Corpus,” and he must place the case number, 2:23-cv-00526-JAD-NJK, in the designated space. Local Rule 15-1 cautions that the amended petition must be complete in itself without reference to previously filed papers. So petitioner must include all claims and allegations that he intends to assert; he cannot merely refer back to his original filing or re-attach pages. Any claims or allegations that are left out of the amended petition or that are not realleged will not be considered.

IT IS THEREFORE ORDERED that the petitioner must:

- **File an amended petition** on the court’s 28 U.S.C. § 2254 form; **and**
- Either (1) **pay** the \$5 filing fee **or** (2) **file** an IFP application that includes: (a) a financial certificate signed by petitioner and an authorized prison official, (b) a financial declaration and acknowledgement signed by petitioner, and (c) a copy of his inmate account statement for the six-month period prior to filing.

If he fails to do so by June 1, 2023, this case will be dismissed without prejudice and without further prior notice. If petitioner decides to pay the filing fee from his inmate account, he must arrange to have a copy of this order attached to the check for the filing fee.

The Clerk of Court is instructed to **SEND** petitioner a blank copy of (1) the form petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, and (2) the IFP application for incarcerated litigants along with two copies of this order.


 U.S. District Judge Jennifer A. Dorsey
 April 18, 2023